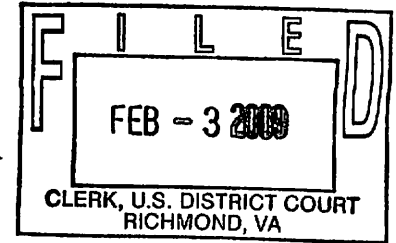


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



NORMAN ABBOTT,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 3:08CV583-HEH
)	
JAMES C. WILLETT,)	
)	
Respondent.)	


MEMORANDUM OPINION
(Dismissing Without Prejudice 28 U.S.C. § 2254 Petition)

Petitioner, a Virginia prisoner, brings this petition for a writ of habeas corpus challenging his state criminal proceedings. “An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that . . . the applicant has exhausted the remedies available in the courts of the State.” 28 U.S.C. § 2254 (b)(1)(A). Furthermore, “[a]n applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.” *Id.* § 2254(c). Here, in light of Petitioner’s recent trial date, it appears that he has an abundance of state remedies still available, including a direct appeal and a state petition for a writ of habeas corpus. Therefore, by Memorandum Order entered on December 3, 2008, the Court directed Petitioner, within eleven (11) days of the date of entry thereof, to show cause why his petition should not be dismissed without prejudice for failure to exhaust available state remedies.

Petitioner has not responded to the December 3, 2008 Memorandum Order. Accordingly, the action will be dismissed without prejudice because Petitioner has failed to exhaust his available state remedies. Petitioner's motions for appointment of counsel (Docket No. 10) and for clarification (Docket No. 11) will be DENIED.

An appropriate Order will accompany this Memorandum Opinion.

Date: Feb 2, 2009
Richmond, Virginia

 /s/ Henry E. Hudson United States District Judge
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